

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

JOHN RUSSOPOULUS, 97-A-1208,

Plaintiff,

v.

**Correction Officer CATER, Correction
Officer RYDZA, Correction Officer
LEWALSKI, Correction Officer
JOHNSON, and Sergeant JOHN DOE<**

Defendants.

**PARTIAL MOTION FOR
SUMMARY JUDGMENT**

03-CV-0249A(Sc)

PLEASE TAKE NOTICE that defendants timothy Lewalski and Gary Johnson will move this Court at the United States Courthouse, 68 Court Street, Buffalo, New York, at a date and time to be set by the Court, for an order granting summary judgment pursuant to Rule 56 in favor of defendants Timothy Lewalski and Gary Johnson and against plaintiff, dismissing the complaint against them upon the grounds more fully set forth in the documents listed below submitted in support of the motion for summary judgment.

PLEASE TAKE FURTHER NOTICE that the motion is based upon the accompanying Memorandum of Law in support of motion for summary judgment dated May 12, 2006; Statement of Undisputed Facts dated May 12, 2006; and Declarations of Gary Johnson dated May 12, 2006 and Timothy Lewalski dated May 11, 2006.

PLEASE TAKE FURTHER NOTICE that pursuant to Rule 56(e) of the Federal Rules of Civil Procedure, when a Motion for Summary Judgment is made and properly supported, you may not simply rely upon your Complaint, but you must respond, by Affidavit or as otherwise provided in that rule, setting forth specific facts showing that there is a genuine issue or material facts for trial. Any factual assertions in our Affidavit will be accepted by the Court as being true,

unless you submit Affidavits or other documentary evidence contradicting our assertions. If judgment is entered against you, your case will be deemed dismissed.

Dated: Buffalo, New York
May 12, 2006

ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendants
BY:
s/ Kim S. Murphy
KIM S. MURPHY
Assistant Attorney General
of Counsel
Statler Towers
107 Delaware Avenue
Buffalo, New York 14202-3473
(716)853-8477
Kim.Murphy@oag.state.ny.us

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOHN RUSSOPOULUS, 97-A-1208,

Plaintiff,

v.

03-CV-0249A(Sc)

**Correction Officer CATER, Correction
Officer RYDZA, Correction Officer
LEWALSKI, Correction Officer
JOHNSON, and Sergeant JOHN DOE<**

Defendants.

I hereby certify that on May 12, 2006, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system,

And, I hereby verify that on May 12, 2006, I mailed the foregoing, by the United States Postal Service, to the following non-CM/ECF participant at his last known address:

JOHN RUSSOPOULUS, 97-A-1208,
Elmira Correctional Facility
Box 500
Elmira, New York 14902-0500

ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendants

BY:

s/ Kim S. Murphy
KIM S. MURPHY
Assistant Attorney General
of Counsel
Statler Towers- 4th Floor
107 Delaware Avenue
Buffalo, New York 14202
(716) 853-8477
Kim.Murphy@oag.state.ny.us